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In re Application of ROTHBARTH et al
U.S. Application No.: 09/701,618
PCT Application No.: PCT/DE99/01684
Int. Filing Date: 09 December 1999
Priority Date Claimed: 03 June 1998
Attorney Docket No.: 2502498-991100
For:

DECISION

This is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.181" filed 29 September 2003.

BACKGROUND

On 09 December 1999, applicant filed international application PCT/DE99/01684, which claimed priority of an earlier Germany application filed 03 June 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 09 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 17 December 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 03 December 2000.

On 01 December 2000, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 13 April 2001, applicant purportedly filed an executed declaration.

On 30 April 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 14 March 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 30 June 2003, applicant filed a petition under 37 CFR 1.181 along with a copy of the declaration purportedly filed on 13 April 2001 and a copy of a postcard receipt.

On 30 July 2003, this Office mailed a decision dismissing the 30 June 2003 petition.

On 29 September 2003, applicant filed a renewed petition under 37 CFR 1.181 along with a copy of a stamped postcard receipt.

DISCUSSION

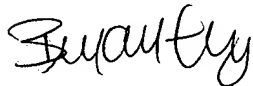
The evidence of record is sufficient to establish that the declaration was originally filed on 13 April 2001. Specifically, the copy of the return postcard, which includes a declaration in its itemized contents and which bears a USPTO date stamp of 13 April 2001, serves as *prima facie* evidence that the declaration was received by the USPTO on 13 April 2001.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 09 December 1999, and a date under 35 U.S.C. 371(c) of 13 April 2001.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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